



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,535	03/26/2001	Hector Franco	HFRANCO.001A	6849

7590 08/05/2003

Hector Franco
999-A La Mesa Terrace
Sunnyvale, CA 94086

EXAMINER

THOMPSON JR, FOREST

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,535

Applicant(s)

FRANCO, HECTOR

Examiner

Forest Thompson Jr.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 & 6-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action (See Paper #5). The text of those sections of Title 35, U.S. Code not otherwise provided in a prior Office action will be included in this action where appropriate.
2. This action is responsive to amendment A filed on 05/27/2003 (see Paper #9). Applicant amended claims 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 15, 16, and 18, cancelled claim 5, and added new claim 19. Claims 1-4 and 6-19 are pending.
3. Claims 1-4 and 6-19 have been examined.

Claim Rejections - 35 USC § 101

4. Claims 1-18 were rejected in Paper #5 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant's amendment has overcome this rejection. Therefore, examiner withdraws the rejection.

Claim Rejections - 35 USC § 102

5. Claim 18 is rejected under 35 U.S.C. 102(a) as being anticipated by Hall et al. (U.S. Patent No. 6,026,375). Applicant's amendment required a new prior art search and identification of additional prior art. Therefore, examiner withdraws the rejection.

Claim Rejections - 35 USC § 103

6. Claims 1-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. (U.S. Patent No. 6,026,375), and further in view of and DiAngelo et al. (U.S. Patent No. 6,101,482). Applicant's amendment has overcome the rejection. Applicant's amendment required a new prior art search and identification of additional prior art. Therefore, examiner withdraws the rejection.

7. Claims 1-4 and 6-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kipp (U.S. Patent No. 5,890,136), and further in view of Schlamp (U.S. Patent No. 5,431,250) and Wittsche (U.S. Patent No. 6,556,975).

Claims 1-4, 6-19: Kipp, Schlamp and Wittsche, in combination, disclose applicant's invention. Specifically:

- Kipp discloses a quick-stop mass retail system that enables customers to order and purchase articles from a remote location over a communications network for pickup at an article pickup area at an automated store. The automated store is a stand-alone facility, to which the customer comes and picks up his or her order. The invention includes a computer controlled mass retail system and method for ordering and purchasing articles. The system and method enables a customer to order one or more articles via an interactive telephone or data network communicating with a central processing center, where the article(s) are automatically retrieved from inventory and rapidly delivered to an article pickup area at the automated store. Communications capabilities are provided for communications between the host computer and the

merchant pickup area. The system further permits a customer to order items in stock from an access terminal for immediate delivery to the article pickup area. (Abstract; col. 1 lines 5-14; col. 2 lines 23-34; col. 3 line 5 – col. 6 line 38)

- Schlamp discloses a system for the sale and delivery of products. The system encompasses a sales store at a first location that displays and sells the products to buyers. After purchasing the items, the buyers travel to a product distribution station at a second location to receive their purchases. The product distribution station aggregates the buyer's purchases for delivery to the buyer based on information received from the first location concerning each buyer. Information is communicated via a link between the sales store and the product distribution station concerning the desired products and the number of items together with information that identifies the buyer. Communications capabilities are provided for communications between the customer and the merchants. (Abstract; col. 2 line 37 – col. 4 line 59)

- Neither Kipp nor Schlamp disclose a plurality of merchants. However, Wittsche discloses a computer system and method for providing an on-line mall, which encompasses multiple merchants in the language of "providing a mall environment on-line, the mall environment including a data storage device; providing two or more stores within the mall environment, where each store is associated with one of two or more communities; providing customer access to the two or more stores." The on-line mall environment is partitioned into at least one community and having at least one store in each community. Each store is made available to a merchant to occupy. The merchant may customize the store by providing for storage on the on-line mall sight design data

and merchandise data. Multiple merchants may participate in the on-line system. Customers access the on-line mall through a remote location. The customers may connect with the on-line mall website through direct connection to the on-line mall or through links provided by other websites. Customer specific data is stored on the on-line mall allowing the customer to enter purchasing data one time for the many stores in each community. Customer purchasing selections are stored and submitted to the merchant at standard intervals. The customer then purchases the purchasing selections and purchasing information is provided to each merchant from which purchasing selection were made. (Abstract; col. 3 lines 11-25; col. 10 line 25) – col. 11 line 67; col. 12 lines 8-13)

The combination of Kipp, Schlamp and Wittsche encompasses all features of applicant's invention. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the disclosures of Kipp and Schlamp to explicitly present purchases by a customer from multiple merchants, and aggregate the purchase data on the basis of the identity of the purchaser, as disclosed by Wittsche, for the motivation of facilitating a transfer of purchases to consumers.

Response to Arguments

8. Applicant's arguments with respect to claims 1-4 and 6-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art includes:


- Musgrave et al. (U.S. Patent No. 6,535,880) discloses an on-line commerce method and apparatus. A user can select products for purchase from plural merchant servers by examining product information stored on a shopping server.
- Berger et al. (U.S. Patent No. 5,943,424) discloses an architecture for processing a plurality of transactions from a single point of initiation is disclosed.


Art Unit: 3625

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached between the hours of 6:30-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


FOT
July 30, 2003


Jeffrey A. Smith
Primary Examiner